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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,747	02/11/2002	Gary B. Gordon	10004367-1	5187

7590 10/17/2003

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EXAMINER	
JUBA JR, JOHN	

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/073,747	Applicant(s) GORDON, GARY B.	
	Examiner John Juba	Art Unit 2872	

--Th MAILING DATE of this communication appears on the cover sh et with the correspond nce addr ss --

THE REPLY FILED 06 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: *6 and 7*.

   Claim(s) rejected: *1-5,8,10-12 and 14-21*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See attached PTO-892*

JOHN JUBA
PRIMARY EXAMINER

Continuation of 2. NOTE: A new issue is raised as to whether the prior art teaches or suggests a structure which is capable both of selectively applying compression and selectively applying tension..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant rebuttal of the anticipation of claim 3 by Abbott, et al relies upon a combination of features, the second of which is clearly identified in the Office action and has not been demonstated to be lacking. As to the characterization of the FP filter as a "multilayer interference filter", the Techmark exhibit (atop the second page) suggests that the FP filter of Abbott, et al would be regarded as a "triple layer" "metal-dielectric interference filter". Applicant would ascribe particular meaning to the expression "multi-layer interference filter", whereas there is no express definition in the specification and the ordinary meaning is not so limited. See the last whole paragraph on Pg. 422 of the attached pages from Optics (E. Hecht), wherein the FP filter is identified as a species of multilayer interference filters. The Attached pages of Principles of Optics (Born & Wolf) clarify that, although similar to an interferometer, the FP filter is nonetheless an interference "filter". It should also be noted that, in addition to the triple-layer etalon design, the filter element of the prior art further includes at least one antireflection layer at each end of the stack. The claim recitation is not as precise as the language permits, and fails to distinguish over the prior art to Abbott, et al. For the same reason, the rejection of claim 21 is not believed to be deficient in the manner apparently relied upon. Applicant has not effectively rebutted a teaching in Abbott, et al of tilting the filter. The discussion of Lee, et al with respect to proposed claims 3 and 21 is not germane to the rejection of claims 1, 2, 10 - 12, and 14-20, and the rejection stands as previously set forth. Applicant's remarks concerning the proposed new claims fail to identify specific features not taught in the prior art, and amount to a general allegation of patentability .

JOHN JUBA
PRIMARY EXAMINER